



DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 14-00004]

Export Trade Certificate of Review

ACTION: Notice of Application for an Export Trade Certificate of Review for DFA of California, Application no. 14-00004.

SUMMARY: The Office of Trade and Economic Analysis (“OTEA”) of the International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review (“Certificate”). This notice summarizes the application and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Joseph Flynn, Director, Office of Trade and Economic Analysis, International Trade Administration, (202) 482-5131 (this is not a toll-free number) or email at etca@trade.gov.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require

the Secretary to publish a notice in the Federal Register identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked as privileged or confidential business information will be deemed to be nonconfidential.

An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Export Trading Company Affairs, International Trade Administration, U.S. Department of Commerce, Room 7025-X, Washington, DC 20230.

Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as “Export Trade Certificate of Review, application number 14-00004.”

A summary of the current application follows.

Summary of the Application

Applicant: DFA of California, 710 Striker Avenue Sacramento, CA 95834

Contact: Matthew Krehe, Senior Manager with Gilbert Associates, Inc., (916) 646-6464

Application No.: 14-00004

Date Deemed Submitted: December 1, 2014

Summary: DFA of California (“DFA”) seeks a Certificate of Review to engage in the Export Trade Activities and Methods of Operation described below in the following Export Trade and Export Markets.

Export Trade:

Products: California Figs, Prunes and Walnuts in processed and unprocessed form. HS codes that best describe these products include, Figs (HS Code 080420), “Natural Condition” and Processed Prunes (HS Code 081320), In-shell Walnuts (HS Code 080231), and Shelled Walnuts (HS Code 080232).

Services: All services related to the export of Products.

Technology Rights: All intellectual property rights associated with Products or Services, including, but not limited to: patents, trademarks, services marks, trade names, copyrights, neighboring (related) rights, trade secrets, know-how, and confidential databases and computer programs.

Export Trade Facilitation Services (as They Relate to the Export of Products): All export trade related facilitation services, including but not limited to: development of trade strategy; sales, marketing, and distribution; foreign market development; export promotion; and all aspects of foreign sales transactions, including export brokerage, freight forwarding, transportation, insurance, billing,

collection, trade documentation, and foreign exchange; customs, duties, and taxes; and inspection and quality control.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of Northern Mariana Islands, and the Territory of the Pacific Islands).

Export Trade Activities and Methods of Operations

To engage in Export Trade in the Export Markets, DFA may exchange and discuss with its Members the following information:

1. With respect to the Export Markets, information about the sales and marketing efforts, activities and opportunities for sales of Products, selling strategies, sales, contract and spot pricing, projected demands, customary terms of sale, and specifications for Products by customers;
2. Information about the price, quality, quantity, source, and delivery dates of Products available from the Members for export;
3. Information about terms and conditions of contracts for sale in the Export Markets to be considered and/or bid on by DFA and its Members;
4. Information about joint bidding or selling arrangements for the Export Markets and allocations of sales resulting from such arrangements among the Members;

5. Information about expenses specific to exporting to and within the Export Markets, including without limitation, transportation, trans- or intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing, customs, duties, and taxes;
6. Information about U.S. and foreign legislation and regulations, including federal marketing order programs, affecting sales of Products for the Export Markets;
7. Information about DFA's or its Members' export operations, including without limitation, sales and distribution networks established by DFA or its Members in the Export Markets, and prior export sales by Members (including export price information); and
8. Information about export customer credit terms and credit history.

DFA and its Members may prescribe the following conditions for admission of members of DFA as participants in the Export Trade Activities and Methods of Operation and as new Members of the Certificate (within the meaning of 15 CFR 325.2(l)) and termination of Membership:

1. Membership shall be limited to Fig, Prune or Walnut Processors and Packers as defined under "Definitions."
2. Membership shall terminate on the occurrence of one of more of the following events:
 - i. Withdrawal or resignation of the a Member;
 - ii. Expulsion approved by a majority of all Members for a material violation of DFA's Operating Agreement, after prior written notice to the Member proposed to be expelled and an opportunity of such Member to appear and be heard before a meeting of the Members;

- iii. Death or permanent disability of a Member who is an individual or the dissolution of a Member other than an individual; or
 - iv. The bankruptcy of a Member as provided in DFA's By-Laws.
- 3. DFA and its Members may establish the following Minimum Qualifications to participate in the DFA of California's Export Committees for Figs, Natural Condition Prunes, Prune Processors, and Walnuts. A participant must be:
 - i. A DFA Member;
 - ii. Owner of a commercially viable processing facility;
 - iii. In good standing with DFA credit terms (Payment net 30); and
 - iv. Its personal and business conduct must be considered consistent with the highest industry standards as necessary to protect the integrity of the committee.
- a. Fig Export Committee: Refer to Minimum Qualifications
- b. Natural Condition Prune Export Committee:
 - i. In addition to meeting the Minimum Qualifications, participation in this export committee requires the Member to be a packer of natural condition prunes for export.
- b. Prune Processor Export Committee:
 - i. In addition to meeting the Minimum Qualifications, participation in this export committee requires the Member to be a processor of processed prunes for export.
 - ii. Participation also requires that the Member has the capability to thermally process and pack fruit into a consumer-ready product to a minimum 25% moisture level suitable for end user consumption.
- c. Walnut Export Committee: Refer to Minimum Qualifications

Definition

1. “Supplier” means a person who produces, provides, or sells Products, Services, and/or Technology Rights.
2. “Export Intermediary” means a person (including a Member) who acts as a distributor, sales representative, sales or marketing agent, or broker, or who provides similar functions, including providing, or arranging the provision of, Export Trade Facilitation Services.
3. “Processor or Packer” means a person who processes or packs figs, prunes or walnuts grown in California.
4. “Member” means the Members of DFA listed below and any other members of DFA added as Members under the Certificate through amendment of the Certificate.
5. “Natural Condition Prunes” means prunes (with pits) in the condition in which they are normally delivered from a dry yard or dehydrator and may include:
 - a. Prunes which have been washed, but which retain natural condition;
 - b. Prunes which will permit normal bulk storage without adding a preservative;
 - c. Prunes which have been size graded;
 - d. Prunes which may have been processed and re-dried to acceptable natural condition moisture content; and
 - e. Prunes in which the average moisture content of a lot is 21% or less.
4. “Processed Prunes” means prunes which have been thermally processed (e.g. treated with hot water or steam) in the course of their preparation for packaging to the extent that their condition no longer meets the definition of “natural condition.”

The members of DFA of California proposed as Members under the Certificate within the meaning of 15 CFR 325.2(l):

1. Alpine Pacific Nut Company (Hughson, CA)
2. Andersen & Sons Shelling (Vina, CA)
3. Avanti Nut Company, Inc. (Stockton, CA)
4. Berberian Nut Company, LLC (Chico, CA)
5. Carriere Family Farms, Inc. (Glenn, CA)
6. Continente Nut LLC (Oakley, CA)
7. Crain Walnut Shelling, Inc. (Los Molinos, CA)
8. Crisp California Walnuts (Stratford, CA)
9. Diamond Foods, Inc. (Stockton, CA)
10. Empire Nut Company (Colusa, CA)
11. Gold River Orchards, Inc. (Escalon, CA)
12. Grower Direct Nut Company (Hughson, CA)
13. GSF Nut Company (Orosi, CA)
14. Guerra Nut Shelling Company (Hollister, CA)
15. Hill View Packing Company Inc. (Gustine, CA)
16. Linden Nut Company (Linden, CA)
17. Mariani Nut Company (Winters, CA)
18. Mariani Packing Company, Inc. (Vacaville, CA)
19. Mid Valley Nut Company Inc. (Hughson, CA)
20. National Raisin Company (Fowler, CA)
21. Poindexter Nut Company (Selma, CA)

22. Prima Noce Packing (Linden, CA)
23. Sacramento Packing, Inc. (Yuba City, CA)
24. Sacramento Valley Walnut Growers, Inc. (Yuba City, CA)
25. San Joaquin Figs, Inc. (Fresno, CA)
26. Shoei Foods USA, Inc. (Olivehurst, CA)
27. Stapleton-Spence Packing (Gridley, CA)
28. Sunsweet Growers Inc. (Yuba City, CA)
29. T.M. Duche Nut Company, Inc. (Orland, CA)
30. Wilbur Packing Company, Inc. (Live Oak, CA)
31. Valley Fig Growers (Fresno, CA)

Dated: December 11, 2014.

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